

AMENDED IN ASSEMBLY AUGUST 30, 2005

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN SENATE MAY 18, 2005

AMENDED IN SENATE APRIL 25, 2005

SENATE BILL

No. 935

Introduced by Senator Ducheny

February 22, 2005

~~An act relating to hazardous substances and declaring the urgency thereof, to take effect immediately. An act to amend Section 12012.45 of the Government Code, relating to gaming.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 935, as amended, Ducheny. ~~Topock site cleanup report. Tribal gaming: compact ratification.~~

Existing federal law, the Indian Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. Existing law expressly ratifies a number of tribal-state gaming compacts between the State of California and specified Indian tribes.

This bill would ratify the amendment of a tribal-state gaming compact entered into on June 7, 2005, between the State of California and the Quechan Tribe of the Fort Yuma Indian Reservation.

This bill would incorporate additional changes in Section 12012.45 of the Government Code, proposed by SB 168, to be operative only if SB 168 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

~~The Carpenter-Presley-Tanner Hazardous Substance Account Act imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act. The act authorizes the department to expend the funds in the Toxic Substances Control Account in the General Fund, upon appropriation by the Legislature, to pay for, among other things, removal and remedial actions related to the release of hazardous substances.~~

~~This bill would require the department, by March 1, 2006, to submit a report to the Governor and the Legislature on the progress of the site evaluation and cleanup of the groundwater at the Topock Compressor Station in the County of San Bernardino. The bill would require the department to include in the report a response to comments received during a 15-day comment period that the department would be required to hold before finalizing the report.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12012.45 of the Government Code is
- 2 amended to read:
- 3 12012.45. (a) The following tribal-state gaming compacts
- 4 and amendments of tribal-state gaming compacts entered into in
- 5 accordance with the Indian Gaming Regulatory Act of 1988 (18
- 6 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)
- 7 are hereby ratified:
- 8 (1) The amendment of the compact between the State of
- 9 California and the Buena Vista Rancheria of Me-Wuk Indians,
- 10 executed on August 23, 2004.
- 11 (2) The compact between the State of California and the Fort
- 12 Mojave Indian Tribe, executed on August 23, 2004.
- 13 (3) The compact between the State of California and the
- 14 Coyote Valley Band of Pomo Indians, executed on August 23,
- 15 2004.

1 (4) The amendment to the compact between the State of
2 California and the Ewiiapaayp Band of Kumeyaay Indians,
3 executed on August 23, 2004.

4 (5) *The amendment to the compact between the State of*
5 *California and the Quechan Tribe of the Fort Yuma Indian*
6 *Reservation, executed on June 7, 2005.*

7 (b) (1) In deference to tribal sovereignty, none of the
8 following shall be deemed a project for purposes of the
9 California Environmental Quality Act (Division 13 (commencing
10 with Section 21000) of the Public Resources Code):

11 (A) The execution of an amendment of a tribal-state gaming
12 compact ratified by this section.

13 (B) The execution of a tribal-state gaming compact ratified by
14 this section.

15 (C) The execution of an intergovernmental agreement between
16 a tribe and a county or city government negotiated pursuant to
17 the express authority of, or as expressly referenced in, a
18 tribal-state gaming compact or an amended tribal-state gaming
19 compact ratified by this section.

20 (D) The execution of an intergovernmental agreement between
21 a tribe and the California Department of Transportation
22 negotiated pursuant to the express authority of, or as expressly
23 referenced in, a tribal-state gaming compact or an amended
24 tribal-state gaming compact ratified by this section.

25 (E) The on-reservation impacts of compliance with the terms
26 of a tribal-state gaming compact or an amended tribal-state
27 gaming compact ratified by this section.

28 (F) The sale of compact assets, as defined in subdivision (a) of
29 Section 63048.6, or the creation of the special purpose trust
30 established pursuant to Section 63048.65.

31 (2) Except as expressly provided herein, nothing in this
32 subdivision shall be construed to exempt a city, county, a city
33 and county, or the California Department of Transportation from
34 the requirements of the California Environmental Quality Act.

35 (c) Revenue contributions made to the state by tribes pursuant
36 to the tribal-state gaming compacts and amendments of
37 tribal-state gaming compacts ratified by this section shall be
38 deposited in the General Fund.

39 *SEC. 1.5. Section 12012.45 of the Government Code is*
40 *amended to read:*

1 12012.45. (a) The following tribal-state gaming compacts
2 and amendments of tribal-state gaming compacts entered into in
3 accordance with the Indian Gaming Regulatory Act of 1988 (18
4 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)
5 are hereby ratified:

6 (1) The amendment of the compact between the State of
7 California and the Buena Vista Rancheria of Me-Wuk Indians,
8 executed on August 23, 2004.

9 (2) The compact between the State of California and the Fort
10 Mojave Indian Tribe, executed on August 23, 2004.

11 (3) The compact between the State of California and the
12 Coyote Valley Band of Pomo Indians, executed on August 23,
13 2004.

14 (4) The amendment to the compact between the State of
15 California and the Ewiiapaayp Band of Kumeyaay Indians,
16 executed on August 23, 2004.

17 (5) *The amendment to the compact between the State of*
18 *California and the Quechan Tribe of the Fort Yuma Indian*
19 *Reservation, executed on June 7, 2005.*

20 (6) *The compact between the State of California and the Yurok*
21 *Tribe of the Yurok Reservation, executed on June 7, 2005.*

22 (b) (1) In deference to tribal sovereignty, none of the
23 following shall be deemed a project for purposes of the
24 California Environmental Quality Act (Division 13 (commencing
25 with Section 21000) of the Public Resources Code):

26 (A) The execution of an amendment of a tribal-state gaming
27 compact ratified by this section.

28 (B) The execution of a tribal-state gaming compact ratified by
29 this section.

30 (C) The execution of an intergovernmental agreement between
31 a tribe and a county or city government negotiated pursuant to
32 the express authority of, or as expressly referenced in, a
33 tribal-state gaming compact or an amended tribal-state gaming
34 compact ratified by this section.

35 (D) The execution of an intergovernmental agreement between
36 a tribe and the California Department of Transportation
37 negotiated pursuant to the express authority of, or as expressly
38 referenced in, a tribal-state gaming compact or an amended
39 tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of a tribal-state gaming compact or an amended tribal-state gaming compact ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, a city and county, or the California Department of Transportation from the requirements of the California Environmental Quality Act.

(c) Revenue contributions made to the state by tribes pursuant to the tribal-state gaming compacts and amendments of tribal-state gaming compacts ratified by this section shall be deposited in the General Fund.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 12012.45 of the Government Code proposed by both this bill and SB 168. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 12012.45 of the Government Code, and (3) this bill is enacted after SB 168, in which case Section 1 of this bill shall not become operative.

~~SECTION 1. (a) The Legislature finds and declares all of the following:~~

~~(1) The Department of Toxic Substances Control determined in 2004 that immediate action was necessary to prevent groundwater containing chromium from reaching the Colorado River, and implemented a groundwater pumping operation at the Topock Compressor Station in the County of San Bernardino, as an interim measure that commenced in March of 2004.~~

~~(2) The department took that action after filing a notice of exemption from the California Environmental Quality Act (CEQA; Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(3) The department is now considering significant expansions of the treatment facility.~~

~~(4) Significant concern has been raised that the characterization of the extent of the existing contamination has been insufficient to determine if the contamination has already crossed under the river.~~

~~(5) It is important to assure that the extent of the contamination is fully explored and that the consequences of all alternative treatment programs are fully assessed and presented to the public.~~

~~(b) On or before March 1, 2006, the Department of Toxic Substances Control shall submit a report to the Governor and the Legislature on the progress of the site evaluation and cleanup of the groundwater at the Topock Compressor Station in the County of San Bernardino. The report shall include, but not be limited to, all of the following:~~

~~(1) The results of any testing that is in the possession of the department and that was done by the department or any other agency of this state, any neighboring state, or the federal government, to determine whether the chromium contamination has already reached the other side of the Colorado River.~~

~~(2) An analysis and description of how the proposed expansion and location of operations might affect Native American lands or heritage interests, and a description of any formal government-to-government consultations on the expansion.~~

~~(3) Information regarding compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including the reasons why a notice of exemption for the project was issued in 2004, after the department indicated in 1999 that an initial study would be prepared for the project.~~

~~(4) Actions taken in response to the detection of hexavalent chromium at 13,000 parts per billion in a well in 1999, and any information regarding the relationship between those actions and the increased groundwater contamination identified in 2004.~~

~~(5) A full description of any alternatives to the currently proposed expansion and relocation that have been considered by the Department of Toxic Substances Control, and the advantages and disadvantages of those alternatives.~~

~~(6) A condensed discussion of the environmental impacts of each alternative considered. This discussion shall be sufficient to inform decisionmakers, but is not required to be as detailed as a discussion in a full environmental impact report prepared pursuant to the California Environmental Quality Act.~~

1 ~~(e) Prior to finalizing the report, the Department of Toxic~~
2 ~~Substances Control shall hold a 15-day public comment period.~~
3 ~~The final report shall include a response to the comments~~
4 ~~received during the public comment period.~~

5 ~~(d) The Department of Toxic Substances Control may prepare~~
6 ~~the report required pursuant to subdivision (b) in consultation~~
7 ~~with other state and federal agencies involved with the site, and~~
8 ~~shall include in the report a summary of the activities of those~~
9 ~~additional agencies.~~

10 ~~SEC. 2. This act is an urgency statute necessary for the~~
11 ~~immediate preservation of the public peace, health, or safety~~
12 ~~within the meaning of Article IV of the Constitution and shall go~~
13 ~~into immediate effect. The facts constituting the necessity are:~~

14 ~~In order to assure that the extent of the contamination is fully~~
15 ~~analyzed at the Topock Compressor Station, thereby protecting~~
16 ~~public health and safety and the environment, it is necessary that~~
17 ~~this act take effect immediately.~~